

Robert Armand Perez Sr. OH # 0009713
Trial Attorney for Plaintiff

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

JOSEPH M. GROMADA, M.D.

Case No.: 1:05 CV 00197

Plaintiff,

**Judge Michael H. Watson
Magistrate Timothy Black**

vs.

STANDARD INSURANCE COMPANY

Defendant.

MOTION TO ORDER MEDIATION

Now comes the Plaintiff Joseph M. Gromada, M.D. and hereby moves the Court to order the Defendant Standard Insurance Company to perform on its agreement to mediate, or, in the alternative, to pay costs incurred.

MEMORANDUM IN SUPPORT

The Plaintiff Joseph M. Gromada, M.D., by and through counsel entered into a contract with Standard Insurance Company through its counsel to mediate and settle the subject matter of this litigation if an agreement could be reached by the parties. The parties agreed upon the use of Attorney James Readey, Columbus, Ohio as a mediator. In anticipation of the mediation, counsel for Dr. Gromada prepared and distributed a mediation brochure on or about August 9, 2005 that was sent to the mediator and to counsel for the Defendant Standard Insurance Company in anticipation of the mediation. This brochure outlined Plaintiff's various theories of the case and other relevant matters.

The mediation was conducted on August 24, 2005 in the offices of James Readey at 37 West Broad Street, Columbus, Ohio. The mediation was adjourned at the request of Standard Insurance Company so that it would have time to reevaluate its position. Now, despite the representations at the adjournment by Standard Insurance Company that mediation would promptly reconvene, the company has refused to make a principal available to conclude the mediation. It has failed to respond to counteroffers by Dr. Gromada.

The reasons given for the failure to reconvene the mediation was the expense involved to the Defendant Standard Insurance Company. Meanwhile, based upon the representations of Standard, Dr. Gromada has incurred attorney's fees, loss of his time from teaching and the related income, as well as significant travel costs. In addition, there is the hourly rate of the mediator that was agreed to be split.

S. D. Ohio Civ. R. 16.3(a)(1) provides that the Court may order a matter to mediation upon the request of any party. Because Standard Insurance Company has entered into an agreement to mediate and is now renegeing on that agreement without completing the mediation, and because the Plaintiff Dr. Gromada has incurred significant costs, including attorney's fee, travel costs and the cost of the mediation, the Plaintiff Joseph M. Gromada, M.D., hereby requests that the Court order the Defendant Standard Insurance Company to reconvene to mediate this matter in good faith, and provide a principal from Standard Insurance Company at that mediation to see whether this matter can be settled.

Should Standard Insurance Company resist performing upon its agreement to mediate, the Plaintiff Dr. Joseph M. Gromada hereby requests that the Court order the Defendant Standard Insurance Company to pay all of the costs of mediation incurred to date, including all of

the fees of James Readey, attorney's fees for the counsel of the Plaintiff Joseph M. Gromada, M.D. at his normal hourly rate of \$275.00/hour that were incurred in the preparation of the mediation brochure, participation in the mediation and subsequent attempts to reconvene the mediation, and the lost time from teaching and the related income incurred by Dr. Gromada, as well as the travel costs incurred by Plaintiff's counsel and the Plaintiff.

Wherefore, the Plaintiff hereby requests that the Court order Standard Insurance Company to provide a principal and reconvene the mediation within thirty days, or pay the costs as outlined above.

Respectfully submitted,

THE PEREZ LAW FIRM CO., L.P.A.

By: /s/ Robert Armand Perez Sr.
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion to Order Mediation was served via electronic service by the Court on January 12, 2006.

/s/ Robert Armand Perez Sr.
Robert Armand Perez Sr.